

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4713-12  
Bill No.: SS for SCS for HS for HCS for HB 1962 with SA1, SA3, SA4, SA5, SA6, SA1 to SA6, SA8, SA9, SA12, SA13, SA14, SA15, SA16, SA17, SA18 & SA21  
Subject: Circuit Clerk; Courts  
Type: Original  
Date: May 15, 2002

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2003</b>	<b>FY 2004</b>	<b>FY 2005</b>
General Revenue*	(\$9,713,843 to Unknown)	(\$1,086,723 to Unknown)	(\$1,167,325 to Unknown)
Crime Victims' Compensation	Unknown	Unknown	Unknown
Second Injury	(Unknown)	(Unknown)	(Unknown)
Criminal Records System	(\$54,885)	(\$63,420)	(\$65,007)
Conservation	(Unknown)	(Unknown)	(Unknown)
Road**	(\$18,950,000 to Unknown)	(\$46,840,000 to Unknown)	(\$48,250,000 to Unknown)
Highway	(Unknown)	(Unknown)	(Unknown)
State School Money***	\$0	\$0	\$0
<b>Total Estimated Net Effect on <u>All</u> State Funds****</b>	<b>(\$28,718,728 to Unknown)</b>	<b>(\$47,990,143 to Unknown)</b>	<b>(\$49,482,332 to Unknown)</b>

**\*FY 03: Savings of Unknown to \$1,900,000; Costs of (\$11,613,843 to Unknown)**

**\*\*FY 03: Loss of (\$18,950,000); Costs of (Unknown)**

**\*\*\*Offsetting Savings and Loss of Unknown to \$1,900,000; Offsetting Transfer in and Costs of \$0 to Unknown**

**\*\*\*\*Unknown Revenue is not expected to offset Costs**

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 22 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2003	FY 2004	FY 2005
<b>Local Government</b>	<b>\$0</b>	<b>More than (\$100,000)</b>	<b>More than (\$100,000)</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Department of Mental Health, Office of Administration – Administrative Hearing Commission, – Commissioner’s Office, Missouri House of Representatives, State Auditor’s Office, Department of Social Services, Department of Insurance, State Treasurer’s Office, Department of Economic Development – Division of Motor Carriers and Railroad Safety, – Professional Registration** and the **Missouri Senate** assume the proposed legislation would have no fiscal impact on their agencies.

In response to a previous version of this proposal, officials from the **Office of Administration – Division of Personnel** assumed the proposed legislation would have no fiscal impact on their agency.

In response to a previous version of this proposal, officials from the **Office of Prosecution Services** assumed prosecutors could absorb the costs of the proposed legislation within existing resources.

Officials from the **Office of Secretary of State (SOS)** assume this bill modifies various aspects of court administration. The Department of Revenue, State Treasurer, Department of Natural Resources, Conservation Commission, and Office of Administration may promulgate rules to implement this bill. Based on experience with other divisions, the rules, regulations and forms issued could require as many as 200 pages in the Code of State Regulations. For any given rule, roughly half again as many pages are published in the Missouri Register as in the code because cost statements, fiscal notes, and the like are not repeated in Code. The estimated cost of a page

ASSUMPTION (continued)

in the Missouri Register is \$23.00. The estimated cost of a page in the Code of State Regulations is \$27.00. The actual cost could be more or less than the numbers given. The impact of this legislation in future years is unknown and depends upon the frequency and length of rules filed, amended, rescinded or withdrawn.

Based on these costs, the SOS estimates the cost of the proposal to be \$12,300 in FY 03 and unknown in subsequent years.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which would require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

#### Background Checks on Sex Offenders (§§43.540 and 589.410)

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the proposal allows the patrol to provide information on persons registered as sex offenders when a background check request is made pursuant to Section 43.540, RSMo.

The MHP's Criminal Records and Identification Division (CRID) provided approximately 1.2 million background checks in 2001. If half of the checks were for the purposes in Section 43.540, then 600,000 searches would be required to be put into the sex offender registry. The technology is not currently available to conduct a synchronized search of the two databases (criminal history record and Megan's Law offenders), but will be available in the near future.

The MHP's CRID would require a full-time Computer Information Tech Specialist I position (at \$41,556 per year) to design, develop, acquire training, maintain the application and hardware, ensure security, and monitor the network infrastructure. The MHP estimates the annual cost to the Criminal Records System Fund for the requested FTE, including fringe benefits, equipment and expense, to be \$54,885 in FY 03; \$63,420 in FY 04; and \$65,007 in FY 05.

#### State Waives Sovereign Immunity for Purposes of Workers' Compensation (§287.780)

Officials from the **Department of Conservation (MDC)** assume that the proposed legislation could have a fiscal impact on MDC funds because of the increased exposure to liability from lawsuits; however, the amount of impact to the Conservation Fund is unknown.

Officials from the **Office of Administration – Division of General Services (COA)** assume the proposed legislation subjects the State of Missouri, as an employer, through the waivers of sovereign immunity, to liability for the wrongful discharge or discrimination against an employee ASSUMPTION (continued)

for exercising the employee's rights under workers' compensation.

Officials from the **Department of Transportation (MoDOT)** assume they have always complied with Missouri Workers' Compensation Law. There could be a fiscal impact if a claim were filed against MoDOT. However, it is impossible to predict whether MODOT would be sued or the amount of any judgments.

County Commissions Pay Salaries of Deputy Circuit Clerks and Division Clerks (§§476.270 and 483.245)

Officials of the **Office of State Courts Administrator** stated that this proposal would authorize County Commissions to pay the salaries of Deputy Circuit Clerks and Division Clerks. Officials stated since the only result of this proposal would be to codify current practice, there would be no cost or savings to the Judiciary.

In response to a previous version of this proposal, officials from the **Department of Labor and Industrial Relations (DOL)** assume the provisions could have an effect, although it is believed to be primarily on CARO. By changing the deputy circuit clerks and division clerks in this one county to county employees, the county now has responsibility for the workers' compensation liability for these employees. CARO should save money, but it will impose an additional cost on the County affected. Also, it will be difficult to track who the employer is when only the one county is changed.

Court Ordered Fee (§488.5021)

Officials from the **Department of Revenue (DOR)** assume if the person who pays the penalty fee files bankruptcy, there are possible consequences if they include a criminal fee in their bankruptcy proceeding. This may not affect the DOR unless the fee is a Motor Vehicle Administrative fee like the one for DWI, etc.

Officials from the **Office of State Courts Administrator (CTS)** assume this section would allow a court to assess an additional \$20 fee for penalties, fines, and sanctions not paid in full within 30 days of imposition.

Depending on the rate of assessment and collection, CTS estimates the range of possible collections is from \$1 million to \$1.9 million. The first figure, \$1 million, is based upon a 20% to 25% collection on misdemeanor and felony cases, and 10% on traffic. The second figure, \$1.9 million, is based on a collection rate of 50% of felonies and 75% of misdemeanors, and is the less likely amount of the two estimates.

ASSUMPTION (continued)

**Oversight** assumes a \$20 fee for penalties, fines, and sanctions not paid within 30 days of imposition would result in an increase in fine revenue to the municipalities, counties, and local school districts. Oversight assumes the increase in fine revenue resulting from this proposal to

the local school districts will decrease the contribution by the state to the State School Money Fund (through the General Revenue Fund).

Sovereign Immunity in FMLA (§537.605)

Officials from the **Office of Attorney General (AGO)** assume the proposal would preclude the AGO from raising sovereign immunity as a defense in FMLA suits; however, AGO assumes state departments are operating under the assumption that they are covered by FMLA and that the proposal would not significantly increase the number of lawsuits filed. AGO assumes any cost could be absorbed within existing resources.

Officials from the **Department of Transportation (MoDOT)** assume they have always complied with the FMLA. There could be a fiscal impact if a claim were filed against MoDOT. However, it is impossible to predict whether MODOT would be sued or the amount of any judgments.

State Consents to Suits Under the Americans with Disability Act in State Courts (§537.617)

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would waive the state's sovereign immunity and permit suits against the state under the federal Americans with Disabilities Act. CTS assumes that suits would be filed in state court and there may be some increase in the number of cases filed. However, CTS has no way of estimating that increase at this time and do not anticipate that it would be substantial enough to require a budget increase in the courts.

Officials from the **Department of Transportation (MoDOT)** assume they have always complied with the Americans with Disabilities Act. There could be a fiscal impact if a claim were filed against MoDOT. However, it is impossible to predict whether MODOT would be sued or the amount of any judgments.

Officials from the **Office of Administration – Division of General Services (COA)** assume the proposal subjects the State of Missouri, through the waiver of sovereign immunity, to liability claims for violation of the Family Medical Leave Act and the Americans with Disabilities Act. The proposed legislation appears to be in response to recent US Supreme Court rulings. COA has no history of such claims prior to the rulings and therefore cannot quantify a cost impact.

ASSUMPTION (continued)

**Oversight** assumes that prior to the recent U.S. Supreme Court decision, cases could be filed in state court. Oversight assumes that this proposal allows such cases to be filed in state court. Based on these assumptions and the assumptions provided by the CTS, Oversight assumes the administrative impact of this proposal is \$0.

“Judicial Officers” to Include Family Court Commissioner, Drug Court Commissioners, and Juvenile Court Officers (§565.084)

In response to a previous version of this proposal, officials from the **Department of Corrections (DOC)** assumed they cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

Supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Burden of Proof (§640.825)

Officials from the **Department of Natural Resources (DNR)** assume, under current environmental law, the burden of proof lies with the appellant. This proposal would shift the burden of proof from the appellant to the DNR in all cases except in matters involving the denial of a permit, license, or registration. The DNR assumes because the burden of proof would shift to the DNR or the commission, more appeals could potentially be filed. The DNR is unable to determine the impact of possible increased appeals. In any matter where any person or persons, other than the applicant, appeals the issuance of any such permit, license or registration, or any term or condition thereof, the burden of proof shall be on the appealing person or persons.

**Oversight** assumes the DNR could absorb the cost of the proposed legislation within existing resources. If the DNR experiences an increase that would require additional funding, the DNR could request the funding through the appropriation process.

ASSUMPTION (continued)

303d List Process (§644.036)

Officials from the **Department of Natural Resources (DNR)** assume the proposed legislation would require the DNR to promulgate a rule for the state's 303d list. The DNR assumes if the EPA approves the list promulgated as a rule, there would not be a significant impact from this provision. If, however, the EPA does not approve the list, then the EPA would develop their own list for the state. At that point, the state would then have to re-promulgate the rule to agree with the EPA list for the state. There would be additional costs associated with re-promulgation.

**Oversight** assumes the DNR could absorb the cost of the proposed legislation within existing resources. If the DNR experiences an increase that would require additional funding, the DNR could request the funding through the appropriation process.

Setoff of Income Tax Refund for Failure to Pay Court Costs (Section 1)

Officials from the **Department of Elementary and Secondary Education (DESE)** assume collections on delinquent fines would increase, thereby increasing the amount of fine money distributed to local school districts.

There is no state cost to the foundation formula associated with this bill. DESE does not know how much additional money might be collected by the DOR to distribute to schools. Any increase in this money distributed to schools becomes a deduction in the foundation formula the following year. Therefore, the affected districts will see an equal decrease in the amount of funding received through the formula the following year; unless the affected districts are hold-harmless, in which case the districts will not see a decrease in the amount of funding received through the formula (any increase in fine money distributed to the hold-harmless districts will simply be additional money). An increase in the deduction (all other factors remaining constant) reduces the cost to the state of funding the formula with a proration factor of 1.00.

Officials from the **Department of Labor and Industrial Relations (DOL)** believe the provision would increase the amount of revenue to the Crime Victims' Compensation Fund. The DOL cannot determine the amount of the positive impact to the Crime Victims' Compensation Fund from the offset of state tax returns as they have no way of knowing the number of individuals owing Crime Victim Compensation penalties which receive a Missouri income tax refund.

Warrant Check and Pick-up Offender (Section 2)

Officials from the **Department of Corrections (DOC)** assume a 48-hour turn around requirement on picking up an offender whenever a holding authority (jail or prison) notifies a detainer or warrant issuing authority that it is holding an offender per the warrant or detainer.

ASSUMPTION (continued)

This means that whenever a jail is holding an offender (probationer or parolee) on a warrant issued by Probation and Parole (P&P) of DOC, the Division of Adult Institutions (DAI) of DOC, upon notification, would have to pick up the offender within 48 hours and the DOC would be charged triple the cost of jailing for the period the offender would be held after notification.

P&P would be required to hold good cause hearings on parole violators, issue its decision and either release or pick up the parolee within 48 hours. It is unclear what DOC would do about probationers held on DOC warrants since DOC has no ability to compel the courts to hear the probation violations. This would appear to require DAI to pickup probationers held on P&P warrant and house them until the violation issues are resolved. This might cause DOC to cease to issue probation violation warrants and make all probation violation warrant applications originate through the courts. Additional unknown but significant funding would be required to pay the triple charges.

Last year the DOC arrested 4,863 offenders on P&P warrants. Board cases are 18.21% of the caseload. To move the cases in a timely manner, an additional 2 teams of two officers each in every region would be required. This is a total of 5 officers per region because a supervising officer would also be required. DOC is unsure if they would need to utilize corrections or probation/parole officers (and the appropriate supervisors) to perform these duties. There are five regions, so this would result in the need of 25 officers. Equipment associated with staff and also major equipment for movement of offenders would be required. These costs would be significant and would fall under the "unknown" portion of this bill.

The cost of housing non-Board cases (includes cases we continue under supervision) is based on the percent of Board vs. non-Board cases. Board cases would account for 886 of the arrests. The remaining 3,977 would be non-Board cases. Given the legal requirements prior to a hearing by the court and the time required for revocation proceedings, DOC estimates the average time to disposition as 45 days per each offender.

Based on a review of disposition of arrests and subsequent incarceration to serve their sentence DOC estimates that 1,437 offenders will be detained who do not serve their sentence and are therefore an additional cost to the state. The 1,437 offenders at 45 days per offender equals 64,665 days served per year. This calculates to an annual offender number of a little over 177 offenders per year. In addition there would be construction costs because of lack of bed space.

DOC estimates the cost of this component of the proposal to be \$11,224,260 to Unknown in FY 03; \$2,452,398 to Unknown in FY 04; and \$2,525,970 to Unknown in FY 05.



ASSUMPTION (continued)

Consumer Service Contract (Section 3)

In response to a previous version of this proposal, officials from the **Department of Transportation (MoDOT)** assume the proposal defines “consumer service contract” as a “contract for the purchase of work, labor or services, including services furnished in connection with the sale, maintenance, lease, rent, or repair of goods or equipment.” Unlike most federal laws regulating consumer contracts, this definition contains no text that limits its application to only individual (real person) consumers. Thus the term “consumer” notwithstanding, this provision would only appear to apply to all business and industrial consumers for their household goods and equipment. As so construed and interpreted, this provision would have a minimal negative fiscal impact on MoDOT (Road Fund), the amount of which is impossible to estimate.

Second Injury Fund (§287.210) (SA 6 with SA 1 to SA 6)

Officials from the **Department of Labor and Industrial Relations (DOL)** assume this provision would have an unknown negative impact on the second injury fund as it requires the fund to pay for certain impartial physician reviews ordered by an Administrative Law Judge.

Costs of Court Transcripts (§488.2250) (SA 14)

Officials from the **Office of Attorney General** assume the proposal increases the cost for transcripts of court proceedings by approximately 45% (ordinarily 3 copies are ordered – original, 50% increase; copy, 43% increase for 2 copies). This would result in additional cost in pursuing appeals on behalf of the state. Because the number and length of transcripts to be requested is unknown, the cost of the proposal is unknown in each fiscal year.

Oversight received additional cost information from the Office of Attorney General. Officials stated that current transcript costs run approximately \$150,000 annually, therefore, a 50% increase in costs would drive the costs to approximately \$75,000 annually, and depending upon the number of transcripts required due to increased activity, the cost could go to as much as \$100,000 annually.

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would increase statutory fees paid to court reporters for preparation of transcripts, and increase the court costs paid by litigants for court reporter services.

Court reporters are statutory state employees who are paid fees in addition to their statutory salary. The per page rate for original civil transcripts would increase from \$1.50 to \$2.25, or a \$.75 increase (50%); and the rate for a page of copy would increase from \$.35 to \$.50, or an increase of \$.15 per page (43%). Indigent criminal transcripts would increase even more

ASSUMPTION (continued)

because the current copy rate is \$0.20, so the increase would be \$0.30 or 150%. These costs are paid by the State Public Defender. In a typical appeal, an original and three copies are prepared (one for each party, one for the trial court file, and one for the appellate court file) and, in some cases, more copies are required.

While most transcript costs are paid by private litigants, there are some costs borne by the judiciary, State Public Defender, and state agencies who are parties to appeals. The current expenditure for court reporter fees paid by the judiciary is approximately \$100,000. Under this proposal, those costs would increase considerably, depending on the mix of original pages and copies.

The statutory court cost charged litigants in cases where the record is preserved using a court reporter would increase by \$10, from \$15 to \$25. This is income to general revenue. Some of these costs will be borne by the state through the criminal costs bills paid by the Office of Administration. There were about 90,000 cases in FY 2001 to which the costs could apply. If fully collected, these costs would generate upwards of \$900,000 in new revenue. Indigent cases, acquittals, dismissals, etc. will reduce receipts considerably, but it would be safe to say the revenue would increase anywhere from \$600,000 to \$750,000.

The legislation also gives court reporters a COLA for transcripts based on the Implicit Price Deflator for Personal Consumption Expenditures as published by the Bureau of Economic Analysis of the United States Department of Commerce. CTS is unable to predict what that increase or decrease might be, but do not expect it to be great.

Officials from the **Office of State Public Defender (SPD)** stated that in FY 1999, the Office of State Courts Administrator core transferred \$405,000 to the State Public Defender and the State Public Defender assumed the responsibility for paying court reporters for trial transcripts for indigent persons seeking an appeal or post conviction relief motion. The SPD's estimated expenditures for the current fiscal year (FY 2001) is \$8,750 per week or \$455,000. The SPD estimates the cost to be \$189,583 in FY 03; \$234,325 in FY 04; and \$241,355 in FY 05.

Officials from the **Department of Transportation (MoDOT)** assume it is not possible to accurately estimate the fiscal impact that the increased court reporter fees would have on MoDOT.

ASSUMPTION (continued)

Sealing of Records (§§610.106 & 610.110) (SA 17)

Officials from the **Department of Revenue (DOR)** assume the proposal provides for the complete sealing or closing of the records of the case where a person has pled guilty or been found guilty and successfully completed a period of probation. The records are closed for all purposes, notwithstanding any provision of law or court order to the contrary.

This will include commercial motor vehicle offenses where an SIS or plea of guilty is considered a conviction. Sealing the records would potentially require the removal of the conviction from the driving record which would be masking the information and would violate the Commercial Motor Vehicle Safety Act. It would also affect school bus criminal checks in that these offenses are required to be part of the background check by section 302.272 but this would override and seal the records. It appears to conflict with or override the provisions of section 610.120 which provides for inaccessibility to the general public but availability of sealed or closed records for law enforcement, department of revenue driving record purposes, criminal background checks for in home services providers etc.

The provisions of SA 17 would have compliance implications relating to the Motor Carrier Safety Improvement Act of 1999 (H.R. 3419). Pursuant to this act, all alcohol related traffic offenses committed by someone with a commercial driver license, whether committed in the commercial vehicle or not, have to be permanently retained. The requirements in these amendments to seal these offenses would be a form of masking that is strictly prohibited by the Motor Carrier Safety Improvement Act of 1999. **This amendment would place the State of Missouri in jeopardy of federal funds being withheld due to noncompliance with this act. Specific funding loss should be obtained from the Missouri Department of Transportation.**

Impact is Unknown to the Department of Revenue.

Officials from the **Department of Transportation (MoDOT)** assume this section provides for sealing all records of a criminal offense for all purposes and shall only be accessible to the defendant. This amendment violates the federal masking prohibitions in 49 U.S.C.A. Section 31311 (19)(B), which provides that a state “may not allow information regarding such violations (every violation involving a motor vehicle) to be withheld or masked in any way from the record of an individual possessing a commercial driver's license.” Basically, all commercial drivers must have their driving records eligible for access to the government, employers and other individuals pursuant to federal law for any moving violations while the operator was using any motor vehicle. If this legislation is enacted, in the first full fiscal year of violation, USDOT shall withhold 5 percent of a state's apportionments under NHS, STP and IM federal construction funds. If the violation continues, the penalty is increased to 10 percent of these categories of funds for each fiscal year a state is in noncompliance. For FY02, the federal aid (in millions) for

ASSUMPTION (continued)

the highway programs is as follows: NHS \$135.8; IM \$130.7; STP \$175.1. Assuming a 3 percent growth, the total federal aid for each highway program is as follows: FY03 - NHS \$139.9; IM \$134.6; and STP \$180.3, FY04 - NHS \$144.1; IM \$138.6; and \$185.7 and FY05 - NHS \$148.4; IM \$142.8; and STP \$191.3. Five percent of the total funds for each program in FY 03 will be transferred from the State Road Funds, therefore the fiscal impact for FY03 is as follows: NHS \$7.0; IM \$6.7; STP \$9.0. Ten percent of the total funds for each program in each remaining FY will be transferred from the State Road Funds, therefore the fiscal impact is as follows: FY04 - NHS \$14.4; IM \$13.9; STP \$18.6 and FY05 - NHS \$14.8; IM \$14.3; STP \$19.1.

Free Exercise of Religion (§§1.302, 1.305, & 1.307) (SA 18)

Officials from the **Department of Corrections (DOC)** assume the proposal will essentially create a law guaranteeing a person's free exercise of religion. DOC assumes they will not be able to have any restrictions on incarcerated offenders unless it is a compelling governmental interest in the least restrictive means.

DOC assumes the least restrictive means of providing free exercise of inmate religious beliefs could require additional personnel to provide inmates the religious services of their choosing and varied religious paraphernalia. Additional meeting space may be required, which could therefore require capital improvements. The least restrictive means to provide for special dietary requirements could require operation of separate food service/dining operations which could again require capital improvements. These requirements could very well apply to each facility operated by the DOC and the burden is on the department to provide these things. Additional inmates could challenge DOC regulations in state court and issues which have been decided in federal court could be relitigated in state court. An individual would be competent and sufficient by themselves to determine and establish a religious practice under the religious exercise clause. There would no longer be a necessity for a practice or belief to be endorsed by a larger religious community before the DOC would be required to allow/facilitate the expression of in individual's religious practices.

In summary, due to the various components of this amendment and their potential for excessive fiscal impact, unknown costs to the DOC could very well exceed \$100,000 per year for this amendment alone. It must be noted that these same concerns would likely hold true for jails throughout the state.

**Oversight** agrees that the same issues could apply to jails operated by political subdivisions.

**Oversight** assumes any additional costs related to the Department of Corrections and political subdivisions would not occur until FY 2004.

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
<b>GENERAL REVENUE FUND</b>			
<u>Savings</u> – Decreased Transfers to State School Money Fund (§488.5021)	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
<u>Costs</u> – Office of Attorney General Increased transcript costs (§488.2250)	As much as (\$100,000)	As much as (\$100,000)	As much as (\$100,000)
<u>Costs</u> – Office of State Public Defender Increased transcript costs (§488.2250)	(\$189,583)	(\$234,325)	(\$241,355)
<u>Costs</u> – to Various State Agencies Increased transcript costs (§488.2250)*	(Unknown)	(Unknown)	(Unknown)
<u>Costs</u> – Department of Corrections Incarceration/Probation (§565.084 & Section 2)	(\$11,224,260 to Unknown)	(\$2,452,398 to Unknown)	(\$2,525,970 to Unknown)
Transport Offenders (Section 2)	More than (\$100,000)	More than (\$100,000)	More than (\$100,000)
Due to Exercise of Religion (§§1.302, 1.305, & 1.307)	<u>\$0</u>	More than <u>(\$100,000)</u>	More than <u>(\$100,000)</u>
<u>Total Costs</u> – DOC	(\$11,324,260 to Unknown)	(\$2,652,398 to Unknown)	(\$2,725,970 to Unknown)
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>(\$9,713,843 to Unknown)</b>	<b>(\$1,086,723 to Unknown)</b>	<b>(\$1,167,325 to Unknown)</b>

**\*Oversight would not expect costs to other state agencies to exceed \$100,000 annually.**

**FISCAL IMPACT - State Government**FY 2003  
(10 Mo.)

FY 2004

FY 2005

**CRIME VICTIMS'  
COMPENSATION FUND**Revenue – Department of Labor and  
Industrial Relations (§595.045)

Additional CVC collections (Sec 1)

UnknownUnknownUnknown**ESTIMATED NET EFFECT ON  
CRIME VICTIMS'  
COMPENSATION FUND**UnknownUnknownUnknown**SECOND INJURY FUND**Costs – payment of physician reviews(Unknown)(Unknown)(Unknown)**ESTIMATED NET EFFECT ON  
SECOND INJURY FUND**(Unknown)(Unknown)(Unknown)**CRIMINAL RECORDS SYSTEM  
FUND**Costs – Missouri State Highway Patrol  
(§43.540)

Personal Service (1 FTE)

(\$35,496)

(\$43,660)

(\$44,751)

Fringe Benefits

(\$15,533)

(\$19,106)

(\$19,583)

Equipment and Expense

(\$3,856)(\$654)(\$673)Total Costs – MHP

(\$54,885)

(\$63,420)

(\$65,007)

**ESTIMATED NET EFFECT ON  
CRIMINAL RECORDS SYSTEM  
FUND**(\$54,885)(\$63,420)(\$65,007)

**FISCAL IMPACT - State Government**FY 2003  
(10 Mo.)

FY 2004

FY 2005

**CONSERVATION FUND**Costs – Department of Conservation  
(\$287.780)

Judgments from potential lawsuits

(Unknown)(Unknown)(Unknown)**ESTIMATED NET EFFECT ON  
CONSERVATION FUND**(Unknown)(Unknown)(Unknown)**ROAD FUND**Loss – Department of Transportation  
 (§§610.106 & 610.110) (SA 17)

Decreased federal funds:

National Highway Systems

(\$5,829,167)

(\$14,410,000)

(\$14,840,000)

Interstate Maintenance

(\$5,608,333)

(\$13,860,000)

(\$14,280,000)

Surface Transportation Program

(\$7,512,500)(\$18,570,000)(\$19,130,000)Total Loss – MoDOT

(\$18,950,000)

(\$46,840,000)

(\$48,250,000)

Costs – Department of Transportation

Consumer Service Contract (Sec 3)

(Unknown)(Unknown)(Unknown)**ESTIMATED NET EFFECT ON  
ROAD FUND**(\$18,950,000 to  
Unknown)(\$46,840,000 to  
Unknown)(\$48,250,000 to  
Unknown)**HIGHWAY FUNDS**Loss – Department of Revenue (§610.106  
& 610.110 – SA 17)

Loss of federal funds

(Unknown)(Unknown)(Unknown)**ESTIMATED NET EFFECT ON  
HIGHWAY FUNDS**(Unknown)(Unknown)(Unknown)

<u>FISCAL IMPACT - State Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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**STATE SCHOOL MONEY FUND**

<u>Savings</u> – Decreased Distributions to School Districts (§488.5021)	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
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<u>Loss</u> – Decreased Transfers from General Revenue Fund (§488.5021)	(Unknown to <u>\$1,900,000</u> )	(Unknown to <u>\$1,900,000</u> )	(Unknown to <u>\$1,900,000</u> )
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**ESTIMATED NET EFFECT ON  
STATE SCHOOL MONEY FUND****\$0****\$0****\$0**

<u>FISCAL IMPACT - Local Government</u>	FY 2003 (10 Mo.)	FY 2004	FY 2005
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**SCHOOL DISTRICTS**

<u>Increase in Revenue</u> – Additional \$20 fee for penalties, fines, and sanctions not paid within 30 days (§488.5021)	Unknown to \$1,900,000	Unknown to \$1,900,000	Unknown to \$1,900,000
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<u>Reduction in Replacement Revenue</u> – Decreased distributions from the State School Money Fund (§488.5021)	(Unknown to \$1,900,000)	(Unknown to \$1,900,000)	(Unknown to \$1,900,000)
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**ESTIMATED NET EFFECT ON  
SCHOOL DISTRICTS****\$0****\$0****\$0**

**\*Fiscal impact would be dependent upon the County Commission establishing a Crime Reduction Fund and upon the number of cases that would be suspended without a fine.**



FISCAL IMPACT - Local GovernmentFY 2003  
(10 Mo.)

FY 2004

FY 2005

**LOCAL GOVERNMENTS****LOCAL FUNDS**Costs - JailsDue to Exercise of Religion (§§1.302,  
1.305, & 1.307)

\$0

More than  
(\$100,000)More than  
(\$100,000)**ESTIMATED NET EFFECT ON  
LOCAL GOVERNMENTS****\$0****More than**  
**(\$100,000)****More than**  
**(\$100,000)**FISCAL IMPACT - Small Business

The proposal could have a fiscal impact on small businesses.

DESCRIPTION

The proposed legislation would change several provisions relating to court procedures and jurisdiction. In its major provisions, the proposal would:

1. Allow the Highway Patrol to receive requests for criminal history record information and payments for such requests by electronic means (§43.530);
2. Authorize the Highway Patrol to inform providers whether an applicant for employment is a registered offender under "Megan's Law" (§43.540);
3. Define "court" for purposes of income tax credits and refunds (§143.782);
4. Requires the second injury fund to pay for certain impartial physician reviews ordered by an Administrative Law Judge (§287.210) (SA 6 with SA 1 to SA 6)
5. Subject the state to lawsuits for discrimination resulting from an employee exercising his or her rights under workers' compensation law (§287.780);
6. Make the surety liable for all costs incurred by the state or county in returning a defendant, unless the jurisdiction in which the defendant is held will not release the defendant to the surety (§374.770);

DESCRIPTION (continued)

7. Allow the public administrator of certain counties to utilize computerized data management software to maintain financial records of estates and to prepare and file settlements of the accounts (§473.750);
8. Prohibit an interpreter or translator from being compelled to testify as to information that would otherwise be protected by attorney-client privilege. Interpreters or translators who serve in any criminal or juvenile proceeding would be allowed a reasonable fee approved by the court (§476.061);
9. Amend the process for filling vacancies of any unexpired term of the Executive Council of the Judicial Conference (§476.340);
10. Change the maximum age to be eligible to serve as municipal judge from 75 to 70 (§479.020);
11. Provide that venue in small claims cases will be determined pursuant to the general venue statute for cases instituted by summons, Section 508.010, RSMo. Under current law, venue in small claims cases lies in the county (a) where the defendant resides, or where the plaintiff resides and the defendant may be found; or (b) where the cause of action accrued (§482.330);
12. Establish procedures for appointing the Circuit Clerk of St. Louis City (§§483.015 & 483.083);
13. Allow County Commissions to vote to pay the salaries of Deputy Circuit Clerks and Division Clerks with county funds. Currently, the salaries of Deputy Circuit Clerks and Division Clerks must be paid by the state (§483.245);
14. Allows county clerks from collecting any surcharge authorized by ordinance, order, or resolution which provides an effective date for the surcharge on or after January 1, 1997, if the ordinance, order, or resolution is authorized by statute (§488.005);
15. Remove the \$1.00 fee for each additional summons issued in each associate circuit court case filed (§488.012);
16. Increase court transcript fees from \$1.50 to \$2.25 per page for the original of the transcript and no more than three copies, and from \$.35 to \$.50 per page for copies. The proposal would also increase the fees paid to the for copies of notes of the evidence from \$1.50 to \$2.25 for the original and no more than three copies. These amounts would increase by a cost-of-living adjustment each year (§488.2250) (SA 14);

DESCRIPTION (continued)

17. Provide that the judgment collected in juvenile proceedings is payable to the Family Services and Justice Fund (§488.2300);
18. Allow a court to assess an additional \$20 fee for penalties, fines, and sanctions not paid in full within 30 days of imposition (§488.5021);
19. Add juvenile proceedings and domestic violence actions to the types of cases for which the state will pay for an interpreter or translator for a party or witness to the proceeding (§491.300);
20. Provide that certain jury lists will be disclosed only pursuant to local court rule (§494.410, 494.415, and 494.420);
21. Exclude Saturdays in the computation of any period of time prescribed by code, order of court, or any applicable statute (§506.060);
22. Circuit clerks could direct deputy or division clerks to perform all duties necessary to endure the proper entry of abstracts and satisfactions of judgment (§511.510);
23. Under current law, actions to recover for personal injury, property damage, or wrongful death caused by a defective condition in the design, planning, or construction of an improvement to real property must be commenced within 10 years of the date the improvement is completed. This would add economic loss to the items of damage that may be recovered and specifies that if an occupancy permit is issued, the 10-year statute of limitation begins to run on that issue date (§516.097);
24. Subject the state to lawsuits for violations of the federal Family and Medical Leave Act (§537.605);
25. Grant limited consent by the state to be sued under the Americans with Disabilities Act (ADA) in state courts, subject to monetary limits, which shall not include punitive damages (§537.617);
26. Require the circuit court clerk to determine on a monthly basis all costs that have accrued in criminal cases where a change of venue has been taken (§550.135 and 550.295);

DESCRIPTION (continued)

27. Provide that in a jury trial for murder in the first degree in which the death penalty was not waived, if the jury is unable to decide or agree upon punishment, the court shall assess and declare the punishment at life imprisonment without eligibility for probation, parole, or release except by act of the Governor. The jury shall be so instructed before the case is submitted (§565.030);
28. Expand the crime of tampering with a judicial officer to add family court commissioners, drug court commissioners, and juvenile court officers to the definition of “judicial officers” (§565.084);
29. Burden of proof in matters heard by the Department of Natural Resources, hazardous waste management commission, state soil and water districts commission, land reclamation commission, safe drinking water commission, air conservation commission, and clean water commission would shift from the appellant to the DNR in all cases except in matters involving the denial of a permit (§640.825);
30. Listings required by the Federal Clean Water Act that result in waters in this state to be classified as impaired would be adopted by rule (§644.036);
31. Allow the state courts administrator to seek a setoff of an income tax refund upon an individual’s failure to pay court costs, fines, fees, or other sums ordered by the court as payable to the state (Section 1);
32. Require the official conducting the court-issued warrant check to contact the issuing jurisdiction within 24 hours of the check. The issuing jurisdiction would be required to acknowledge notification within 24 hours and remove the prisoner within 48 hours of notification (Section 2);
33. Entitle attorneys elected to or employed by the general assembly during a regular legislative session to report fifteen credit hours of continuing legal education for the reporting year that includes the session (Section 3);
34. Disallow any automatic renewal provision for a period longer than one year in a consumer service contract except pre-paid service contracts (Section 4);
35. Require bonds posted by a licensed bail bondsman to be released at the time of sentence imposition (Section 7) (SA 3);

DESCRIPTION (continued)

36. Allow county commission of any county of the first classification which has an appointed county counselor and which adopts rules to impose a civil fine not to exceed \$1,000 for each violation. The fine would be payable to the county general fund to be used to pay for the cost of enforcement of rules. It would be the duty of the county counselor to prosecute violations (§§49.272 & 56.640) (SA 13);
37. Allow the sealing of court records when the court imposes a suspended sentence and the person successfully completes any court-ordered probation. Once the records are sealed or closed, the arrest, charges, conviction or guilty plea cannot be used for impeachment purposes. A person would not be guilty of perjury if, in a later case, the person fails to disclose the existence of the sealed record (§§610.106 & 610.110) (SA 17);
38. Require that the compelling state interest test be imposed on all government laws and ordinances that might infringe upon one's exercise of religion. Nothing in the proposal shall be construed to establish or eliminate a defense to a civil action or criminal prosecution based on civil rights law (§§1.302, 1.305, & 1.307) (SA 18);
39. Remove duplicate language and sections.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Public Safety

– Missouri State Highway Patrol

Department of Mental Health

Department of Natural Resources

Office of Administration

– Administrative Hearing Commission

– Division of General Services

– Commissioner's Office

Missouri House of Representatives

State Auditor's Office

Department of Elementary and Secondary Education

Department of Revenue

Office of State Public Defender

Department of Conservation

Department of Social Services

DESCRIPTION (continued)

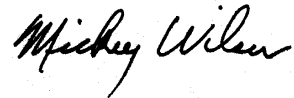
L.R. No. 4713-12

Bill No. SS for SCS for HS for HCS for HB 1962 with SA1, SA3, SA4, SA5, SA6, SA1 to SA6, SA8, SA9, SA12, SA13, SA14, SA15, SA16, SA17, SA18 & SA21

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Department of Insurance  
Office of Secretary of State  
Office of Attorney General  
State Treasurer's Office  
Office of State Courts Administrator  
Department of Labor and Industrial Relations  
Department of Economic Development  
    – Division of Motor Carriers and Railroad Safety  
    – Professional Registration  
Department of Corrections  
Missouri Senate  
Office of Prosecution Services  
Department of Transportation

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Acting Director

May 15, 2002